

## REMARKS

In the Office Action mailed April 3, 2006, claims 1, 3, 8-10, 14, 15, 17, 19 and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by Crockett, claims 2, 11, and 16 were rejected under §103(a) as being obvious over Crockett in view of Yanai, claim 4 was rejected under §103(a) as being obvious over Crockett in view of Nelson and claims 6, 7, 12, 13 and 18 were rejected under §103(a) as being obvious over Crockett in view of Galipeau. Claim 5 was objected to as being dependent upon a rejected base claim but otherwise allowable. In the present Response, claims 1, 2, 4, 6, 9, 10, 14, 15 and 16 have been amended and claims 21-23 have been added. The Applicant respectfully traverses the claim rejections.

Claims 1-3, 6 and 16 have been amended to clarify that certain monitoring is performed by, and certain instructions are transmitted by, the second peer data storage facility. That is, the second facility monitors writes from the first facility to detect errors not detected by the first facility. If such an error is detected, the second facility notifies the first facility to initiate an error recovery procedure. Outside monitoring, such as by a host, is not necessary. By contrast, in the system of Crockett instructions originate in, and are transmitted by, the host 2. Crockett does not disclose or suggest that the remote secondary site 6 monitors write operations or initiates any corrective operations by transmitting instructions to the primary site 4. Thus, Crockett does not anticipate the claimed invention.

The claims have also been amended to clarify that the first and second communications links are different from each other and dependent claims 21-23 have been added to recite additional optional features of the first and second communications links. With respect to claims 2, 11 and 16, the signal paths 58 and 60 in Yanai (referenced in column 9, lines 8-18 on page 6 of the Office Action) do not interconnect the primary and secondary data storage systems 14 and 46. Rather, they are separate host connections: the first signal path 58 connects the first host 12 with the secondary storage system 46 while the second signal path 60 connects the second host 52 with the primary storage system 14. In the present invention, while the first communication link may be a direct, peer-to-peer link, the second communication link may be an

indirect, out-of-band link such as, for example, a customer Ethernet network (see Fig. 1), thereby providing a reliable means of communications between the two storage facilities in the event that the first (direct) link fails. Thus, not only is there no suggestion in either Crockett or Yanai to combine elements, no such combination would result in the claimed invention and no combination of the two references can render the claims obvious.

Consequently, the claims of the present invention are neither anticipated nor rendered obvious by any of the cited references or by any combination thereof.

In addition to the specific remarks made above in support of specific dependent claims, the Applicant respectfully asserts that all of the dependent claims are allowable based on the allowability of their respective independent claims.

The undersigned has reviewed the art made of record but not relied upon and believes it to be of only background interest.

For the foregoing reasons, the claims are believed to be allowable, the Application is believed to be in condition for allowance and a favorable Office Action is requested. The Examiner is encouraged to contact the undersigned by telephone if a conversation would expedite prosecution of this case.

This constitutes a request for any needed extension of time. A fee is included for the new claims. The undersigned hereby authorizes the charge of any deficiency of fees submitted herewith, or the credit of any overpayment, to deposit account number 09-0449.

Respectfully Submitted,



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